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HOUSE BILL 342

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Luciano "Lucky" Varela

FOR THE WELFARE REFORM OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC BENEFITS; AMENDING SECTIONS OF THE NEW MEXICO WORKS ACT AND THE EDUCATION WORKS ACT TO COMPLY WITH CHANGES IN FEDERAL LAW; MODIFYING ELIGIBILITY FOR BENEFITS, WORK REQUIREMENTS AND SUPERVISION FOR CLIENTS IN THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM AND OTHER RELATED PROGRAMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 27-2B-3 NMSA 1978 (being Laws 1998, Chapter 8, Section 3 and Laws 1998, Chapter 9, Section 3, as amended by Laws 2003, Chapter 311, Section 2 and by Laws 2003, Chapter 432, Section 2) is amended to read:

"27-2B-3. DEFINITIONS.--As used in the New Mexico Works Act:

A. "applicant" means a person applying for cash

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1 assistance on behalf of a benefit group;

2 [A.] B. "benefit group" means a pregnant woman or a  
3 group of people that includes a dependent child, all of that  
4 dependent child's full, half [~~step~~] or adopted siblings or  
5 stepsiblings living with the dependent child's parent or  
6 relative within the fifth degree of consanguinity and the  
7 parent with whom the children live;

8 [B.] C. "cash assistance" means cash payments  
9 funded by the temporary assistance for needy families block  
10 grant pursuant to the federal act and by state funds;

11 [C.] D. "department" means the human services  
12 department;

13 [D.] E. "dependent child" means a natural child,  
14 adopted [~~or~~] child, stepchild or ward who is:

15 (1) seventeen years of age or younger;

16 (2) eighteen years of age and is enrolled in  
17 high school; or

18 (3) between eighteen and twenty-two years of  
19 age and is receiving special education services regulated by  
20 the [~~state board of~~] public education department;

21 [E.] F. "director" means the director of the income  
22 support division of the department;

23 [F.] G. "earned income" means cash or payment in  
24 kind that is received as wages from employment or payment in  
25 lieu of wages; and earnings from self-employment or earnings

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1 acquired from the direct provision of services, goods or  
2 property, production of goods, management of property or  
3 supervision of services;

4 ~~[G.]~~ H. "federal act" means the federal Social  
5 Security Act and rules promulgated pursuant to the Social  
6 Security Act;

7 ~~[H.]~~ I. "federal poverty guidelines" means the  
8 level of income defining poverty by family size published  
9 annually in the federal register by the United States  
10 department of health and human services;

11 ~~[I.]~~ J. "immigrant" means alien as defined in the  
12 federal act;

13 ~~[J.]~~ K. "parent" means natural parent, adoptive  
14 parent, stepparent or legal guardian;

15 ~~[K.]~~ L. "participant" means a recipient of cash  
16 assistance or services or a member of a benefit group who has  
17 reached the age of majority;

18 ~~[L.]~~ M. "person" means an individual;

19 ~~[M.]~~ N. "secretary" means the secretary of the  
20 department;

21 ~~[N.]~~ O. "services" means child care assistance;  
22 payment for employment-related transportation costs; job search  
23 assistance; employment counseling; employment, education and  
24 job training placement; one-time payment for necessary  
25 employment-related costs; case management; or other activities

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1 whose purpose is to assist transition into employment;

2           [~~Θ-~~] P. "unearned income" means old age, survivors  
3 and disability insurance; railroad retirement benefits;  
4 veterans administration compensation or pension; military  
5 retirement; pensions, annuities and retirement benefits; lodge  
6 or fraternal benefits; shared shelter payments; settlement  
7 payments; individual Indian money; child support; unemployment  
8 compensation benefits; union benefits paid in cash; gifts and  
9 contributions; and real property income; [~~and~~

10           ~~P-~~] Q. "vehicle" means a conveyance for the  
11 transporting of individuals to or from employment, for the  
12 activities of daily living or for the transportation of goods;  
13 "vehicle" does not include [~~boats, trailers or mobile homes~~]  
14 any boat, trailer or mobile home used as a [~~principle~~]  
15 principal place of residence; and

16           R. "vocational education" means an organized  
17 educational program that is directly related to the preparation  
18 of a person for employment in a current or emerging occupation  
19 requiring training other than a baccalaureate or advanced  
20 degree. Vocational education must be provided by an  
21 educational or a training organization, such as a vocational-  
22 technical school, community college, post-secondary educational  
23 institution or proprietary school."

24           Section 2. Section 27-2B-4 NMSA 1978 (being Laws 1998,  
25 Chapter 8, Section 4 and Laws 1998, Chapter 9, Section 4, as  
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1 amended by Laws 2001, Chapter 295, Section 2 and by Laws 2001,  
2 Chapter 326, Section 2) is amended to read:

3 "27-2B-4. APPLICATION--RESOURCE PLANNING SESSION--  
4 INDIVIDUAL RESPONSIBILITY PLANS--PARTICIPATION AGREEMENT--  
5 REVIEW PERIODS.--

6 A. Application for cash assistance or services  
7 shall be made to the [~~department's county office in the county~~  
8 ~~or district in which an applicant resides~~] department. The  
9 application shall be in writing or reduced to writing in the  
10 manner and on the form prescribed by the department. The  
11 application shall be made under oath by an applicant having  
12 custody of or residing with a dependent child who is a benefit  
13 group member and shall contain a statement of the age of the  
14 child, residence, a complete statement of the amount of  
15 property in which the applicant has an interest, a statement of  
16 all income that [~~he~~] the applicant and other benefit group  
17 members have at the time of the filing of the application and  
18 other information required by the department.

19 [~~B. Application for expedited food stamps shall be~~  
20 ~~made to the department's county office in the county or~~  
21 ~~district in which an applicant resides. The department shall~~  
22 ~~process the application for expedited food stamps within~~  
23 ~~twenty-four hours after the application is made.]~~

24 B. The department shall assist an applicant in  
25 completing the application for cash assistance or services and

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1 shall evaluate an applicant to determine eligibility for all  
2 department programs for which the applicant is eligible. The  
3 department shall process all expedited food stamp applications  
4 within two business days of submission, and the department  
5 shall deliver expedited food stamps to an eligible applicant  
6 within seven days of the application.

7 C. At the time of application for cash assistance  
8 and services, an applicant and the department shall identify  
9 everyone who is to be counted in the benefit group. Once an  
10 application is approved, the participant shall advise the  
11 department if there are any changes in the membership of the  
12 benefit group.

13 D. No later than thirty days after an application  
14 is filed, the department shall provide to an applicant a  
15 resource planning session to ascertain [~~his~~] the applicant's  
16 immediate needs, assess financial and nonfinancial options,  
17 make referrals and act on the application.

18 E. No later than five days after an application is  
19 approved, the department shall provide reimbursement for child  
20 care.

21 F. Whenever the department receives an application  
22 for assistance, a verification and record of the applicant's  
23 circumstances shall promptly be made to ascertain the facts  
24 supporting the application and to obtain other information  
25 required by the department. The verification may include a

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1 visit to the home of the applicant, as long as the department  
2 gives adequate prior notice of the visit to the applicant.

3 G. [~~Within~~] No later than fifteen days after an  
4 application is approved, the department shall assess the  
5 education, skills, prior work experience and employability of  
6 the participant.

7 H. After the initial assessment of skills, the  
8 department shall work with the participant to develop an  
9 individual responsibility plan that:

10 (1) sets forth an employment goal for the  
11 participant and a plan for moving the participant into  
12 employment;

13 (2) sets forth obligations of the participant  
14 that may include a requirement that the participant attend  
15 school, maintain certain grades and attendance, keep [~~his~~] the  
16 participant's school-age children in school, immunize [~~his~~] the  
17 participant's children or engage in other activities that will  
18 help the participant become and remain employed;

19 (3) is designed to the greatest extent  
20 possible to move the participant into whatever employment the  
21 participant is capable of handling and to provide additional  
22 services as necessary to increase the responsibility and amount  
23 of work the participant will handle over time;

24 (4) describes the services the department may  
25 provide so that the participant may obtain and keep employment;

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1 and

2 (5) may require the participant to [~~undergo~~  
3 participate in appropriate [~~treatment~~] services, such as  
4 substance abuse, domestic violence or mental health services.

5 I. The participant and [~~a representative of~~] the  
6 department shall sign the participant's individual  
7 responsibility plan. The department shall not allow a  
8 participant to decline to participate in developing an  
9 individual responsibility plan. The department shall not waive  
10 the requirement that a participant develop an individual  
11 responsibility plan. The department shall emphasize the  
12 importance of the individual responsibility plan to the  
13 participant.

14 J. If a participant does not develop an individual  
15 responsibility plan, refuses to sign an individual  
16 responsibility plan or refuses to attend semiannual reviews of  
17 an individual responsibility plan, [~~he~~] the participant shall  
18 be required to enter into a conciliation process pursuant to  
19 Subsection C of Section 27-2B-14 NMSA 1978. If the participant  
20 persists in noncompliance with the individual responsibility  
21 plan process after the conciliation [~~he~~] process, the  
22 participant shall be subject to sanctions pursuant to Section  
23 27-2B-14 NMSA 1978.

24 K. The participant shall also sign a participation  
25 agreement that designates the number of hours that [~~he~~] the

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1 participant must participate in work activities to meet  
2 participation standards.

3 L. The department shall review the current  
4 financial eligibility of a benefit group when the department  
5 reviews food stamp eligibility.

6 M. The department shall meet semiannually with a  
7 participant to review and revise [~~his~~] the participant's  
8 individual responsibility plan.

9 N. The department shall develop a complaint  
10 procedure to address issues pertinent to the delivery of  
11 services and other issues relating to a participant's  
12 individual responsibility plan."

13 Section 3. Section 27-2B-5 NMSA 1978 (being Laws 1998,  
14 Chapter 8, Section 5 and Laws 1998, Chapter 9, Section 5, as  
15 amended) is amended to read:

16 "27-2B-5. WORK REQUIREMENTS--WORK PARTICIPATION RATES.--

17 A. The following qualify as work activities:

18 (1) unsubsidized employment, including self-  
19 employment;

20 (2) subsidized private sector employment,  
21 including self-employment;

22 (3) subsidized public sector employment;

23 (4) work experience [~~including work associated~~  
24 ~~with the refurbishing of publicly assisted housing if~~  
25 ~~sufficient private sector employment is not available~~];

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1 (5) on-the-job training;  
2 (6) job search and job readiness [~~assistance,~~  
3 ~~as long as the department complies with the federal act~~];

4 (7) community service programs;

5 (8) vocational education [~~except that~~  
6 ~~vocational education shall not qualify as a work activity for~~  
7 ~~longer than is provided by the federal act~~];

8 (9) job skills training activities directly  
9 related to employment;

10 (10) education directly related to employment  
11 [~~for a participant who has not received a high school diploma~~  
12 ~~or a certificate of high school equivalency~~];

13 (11) satisfactory attendance at a secondary  
14 school or course of study leading to a certificate of general  
15 equivalency in the case of a participant who has not completed  
16 secondary school or received such a certificate; and

17 (12) the provision of child care services to a  
18 participant who is participating in a community service  
19 program.

20 B. The department shall recognize community service  
21 programs and job training programs that are operated by an  
22 Indian nation, tribe or pueblo.

23 C. The department may not require a participant to  
24 work more than four hours per week over the work requirement  
25 rate set pursuant to the federal act.

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1           D. The department shall require a parent, caretaker  
2 or other adult who is a member of a benefit group to engage in  
3 a work activity. ~~[once the department determines he is ready to~~  
4 ~~engage in a work activity or once he has received cash~~  
5 ~~assistance or services for twenty-four months or as otherwise~~  
6 ~~required by the federal act, whether or not consecutive,~~  
7 ~~whichever is earlier.~~

8           ~~E. The following qualify as temporary alternative~~  
9 ~~work activities that the department may establish for no longer~~  
10 ~~than twelve weeks except as otherwise provided]~~

11           E. Where best suited for the participant to address  
12 barriers, the department may require the following work  
13 activities:

14                   (1) participating in parenting classes, money  
15 management classes or life skills training;

16                   (2) participating in a certified alcohol or  
17 drug addiction program;

18                   (3) in the case of a homeless benefit group,  
19 finding a home;

20                   (4) in the case of a participant who is a  
21 victim of domestic violence residing in a domestic violence  
22 shelter or receiving counseling or treatment or participating  
23 in criminal justice activities directed at prosecuting the  
24 domestic violence perpetrator for no longer than twenty-four  
25 weeks; and

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1 (5) in the case of a participant who does not  
2 speak English, participating in a course in English as a second  
3 language.

4 F. Subject to the availability of funds, the  
5 department in cooperation with the labor department, [~~New~~  
6 ~~Mexico office of~~] Indian affairs department and other  
7 appropriate state agencies may develop projects to provide for  
8 the placement of participants in work activities, including the  
9 following:

10 (1) participating in unpaid internships with  
11 private and government entities;

12 (2) refurbishing publicly assisted housing;

13 (3) volunteering at a head start program or a  
14 school;

15 (4) weatherizing low-income housing; and

16 (5) restoring public sites and buildings,  
17 including monuments, parks, fire stations, police buildings,  
18 jails, libraries, museums, auditoriums, convention halls,  
19 hospitals, buildings for administrative offices and city halls.

20 G. If a participant is engaged in full-time [~~post-~~  
21 ~~secondary~~] vocational education studies or an activity set out  
22 in Paragraphs (9) through (11) of Subsection A of this section,  
23 the participant shall engage in another work activity at the  
24 same time. Additionally, for two-parent families that receive  
25 federally funded child-care assistance, the participant's

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1 spouse shall engage in a work activity set out in Paragraphs  
2 (1) through (5) or (7) of Subsection A of this section unless  
3 the participant suffers from a temporary or complete disability  
4 that bars ~~[him]~~ the participant from engaging in a work  
5 activity or ~~[he]~~ the participant is barred from engaging in a  
6 work activity because ~~[he]~~ the participant provides sole care  
7 for a disabled person.

8 H. A participant engaged in ~~[post-secondary]~~  
9 vocational education studies shall make reasonable efforts to  
10 obtain a loan, scholarship, grant or other assistance to pay  
11 for costs and tuition, and the department shall disregard those  
12 amounts in the eligibility determination.

13 I. For as long as the described conditions exist,  
14 the following are exempt from the work requirement:

15 (1) a participant barred from engaging in a  
16 work activity because ~~[he]~~ the participant is temporarily or  
17 completely disabled;

18 (2) a participant over age sixty;

19 (3) a participant barred from engaging in a  
20 work activity because ~~[he]~~ the participant provides the sole  
21 care for a disabled person;

22 (4) a single custodial parent caring for a  
23 child less than twelve months old for a lifetime total of  
24 twelve months;

25 (5) a single custodial parent caring for a

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1 child under six years of age if the parent is unable to obtain  
2 child care for one or more of the following reasons:

3 (a) unavailability of appropriate child  
4 care within a reasonable distance from the parent's home or  
5 work as defined by the children, youth and families department;

6 (b) unavailability or unsuitability of  
7 informal child care by a relative under other arrangements as  
8 defined by the children, youth and families department; or

9 (c) unavailability of appropriate and  
10 affordable formal child-care arrangements as defined by the  
11 children, youth and families department;

12 (6) a pregnant woman during her last trimester  
13 of pregnancy;

14 (7) a participant prevented from working by a  
15 temporary emergency or a situation that precludes work  
16 participation for thirty days or less;

17 (8) a participant who demonstrates by reliable  
18 medical, psychological or mental reports, court orders or  
19 police reports that family violence or threat of family  
20 violence effectively bars the participant from employment; and

21 (9) a participant who demonstrates good cause  
22 of the need for the exemption.

23 J. As a condition of the exemptions identified in  
24 Subsection I of this section, the department may establish  
25 participation requirements specific to the participant's

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1 condition or circumstances, such as substance abuse services,  
2 mental health services, domestic violence services, pursuit of  
3 disability benefits, job readiness or education directly  
4 related to employment. The activities are established to  
5 improve the participant's capacity to improve income and  
6 strengthen family support."

7 Section 4. Section 27-2B-6 NMSA 1978 (being Laws 1998,  
8 Chapter 8, Section 6 and Laws 1998, Chapter 9, Section 6, as  
9 amended by Laws 2003, Chapter 311, Section 3 and Laws 2003,  
10 Chapter 432, Section 3) is amended to read:

11 "27-2B-6. DURATIONAL LIMITS.--

12 A. Pursuant to the federal act, on or after  
13 July 1, 1997 a participant may receive federally funded cash  
14 assistance or state-funded cash assistance and services  
15 pursuant to the New Mexico Works Act for up to sixty months.

16 B. During a participant's [~~fourth, sixth and~~  
17 ~~eight~~] semi-annual [~~reviews~~] review, the department shall  
18 examine the participant's progress to determine if the  
19 participant has successfully completed an educational or  
20 training program or increased the number of hours [~~he~~] the  
21 participant is working as required by the federal act. The  
22 department may refer the participant to alternative work  
23 activities or provide additional services to address [~~possible~~]  
24 barriers to employment facing the participant.

25 C. Up to twenty percent of the population of

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1 participants may be exempted from the sixty-month durational  
2 limit set out in Subsection A of this section because of  
3 hardship or because those participants are battered or subject  
4 to extreme cruelty.

5 D. For the purposes of this section, a participant  
6 has been battered or subjected to extreme cruelty if [~~he~~] the  
7 participant can demonstrate by reliable medical, psychological  
8 or mental reports, court orders or police reports that [~~he~~] the  
9 participant has been subjected to and currently is affected by:

- 10 (1) physical acts that result in physical  
11 injury;
- 12 (2) sexual abuse;
- 13 (3) being forced to engage in nonconsensual  
14 sexual acts or activities;
- 15 (4) threats or attempts at physical or sexual  
16 abuse;
- 17 (5) mental abuse; or
- 18 (6) neglect or deprivation of medical care  
19 except when the deprivation is based by mutual consent on  
20 religious grounds.

21 E. For the purposes of this section, a hardship  
22 exception applies to a person who demonstrates through reliable  
23 medical, psychological or mental reports, social security  
24 administration records, court orders, police reports or  
25 department records that [~~he~~] the person is a person:

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1 (1) who is barred from engaging in a work  
2 activity because [~~he~~] the person is temporarily or completely  
3 disabled;

4 (2) who is the sole provider of home care to  
5 an ill or disabled family member;

6 (3) whose ability to be gainfully employed is  
7 affected by domestic violence;

8 (4) whose application for supplemental  
9 security income is pending in the application or appeals  
10 process and who:

11 (a) meets the criteria of Paragraph (1)  
12 of this subsection; or

13 (b) was granted a waiver from the work  
14 requirement or was granted a limited participation requirement  
15 pursuant to Paragraph (1) of Subsection I of Section 27-2B-5  
16 NMSA 1978 in the last twenty-four months; or

17 (5) who otherwise qualifies for a hardship  
18 exception as defined by the department.

19 F. Pursuant to the federal act, the department  
20 shall not count a month of receipt of cash assistance or  
21 services toward the sixty-month durational limit if during the  
22 time of receipt the participant:

23 (1) was a minor and was not the head of a  
24 household or married to the head of a household; or

25 (2) lived in Indian country, as defined in the

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1 federal act, if the most reliable data available with respect  
2 to the month indicate that at least fifty percent of the adults  
3 living in Indian country or in the village were not employed."

4 Section 5. Section 27-2B-7 NMSA 1978 (being Laws 1998,  
5 Chapter 8, Section 7 and Laws 1998, Chapter 9, Section 7, as  
6 amended) is amended to read:

7 "27-2B-7. FINANCIAL STANDARD OF NEED.--

8 A. The secretary shall adopt a financial standard  
9 of need based upon the availability of federal and state funds  
10 and based upon appropriations by the legislature of the  
11 available federal temporary assistance for needy families grant  
12 made pursuant to the federal act in the following categories:

- 13 (1) cash assistance;
- 14 (2) child care services;
- 15 (3) other services; and
- 16 (4) administrative costs.

17 The legislature shall determine the actual percentage of  
18 each category to be used annually of the federal temporary  
19 assistance for needy families grant made pursuant to the  
20 federal act. Within the New Mexico works program, the  
21 department may provide cash assistance or services to specific  
22 categories of benefit groups from general funds appropriated to  
23 cash assistance or services. The department may exclude these  
24 funds from temporary assistance for needy families maintenance  
25 of effort. The department shall identify alternative state

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1 spending to claim as maintenance of effort and make necessary  
2 arrangements to allow reporting of that spending.

3 B. The following income sources are exempt from the  
4 gross income test, the net income test and the cash payment  
5 calculation:

- 6 (1) medicaid;
- 7 (2) food stamps;
- 8 (3) government-subsidized foster care payments  
9 if the child for whom the payment is received is also excluded  
10 from the benefit group;
- 11 (4) supplemental security income;
- 12 (5) government-subsidized housing or housing  
13 payments;
- 14 (6) federally excluded income;
- 15 (7) educational payments made directly to an  
16 educational institution;
- 17 (8) government-subsidized child care;
- 18 (9) earned income that belongs to a person  
19 seventeen years of age or younger who is not the head of  
20 household;

21 (10) child support passed through to the  
22 participant by the child support enforcement division of the  
23 department in the following amounts:

24 ~~[~~(10)~~] (a) fifty dollars (\$50.00) [of~~  
25 ~~collected child support passed through to the participant by~~

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1 ~~the department's child support enforcement program]~~ per month  
2 through December 31, 2008; and

3 (b) no later than January 1, 2009, a  
4 minimum of one hundred dollars (\$100) for one child and two  
5 hundred dollars (\$200) for two or more children as based on the  
6 availability of state or federal funds;

7 (11) earned income deposited in a family  
8 opportunity account by a member of the benefit group or money  
9 received as matching funds for allowable uses by the owner of  
10 the family opportunity account pursuant to the Family  
11 Opportunity Accounts Act; and

12 (12) other income sources as determined by the  
13 department.

14 C. The total countable gross earned and unearned  
15 income of the benefit group cannot exceed eighty-five percent  
16 of the federal poverty guidelines for the size of the benefit  
17 group.

18 D. For a benefit group to be eligible to  
19 participate:

20 (1) gross countable income that belongs to the  
21 benefit group must not exceed eighty-five percent of the  
22 federal poverty guidelines for the size of the benefit group;  
23 and

24 (2) net countable income that belongs to the  
25 benefit group must not equal or exceed the financial standard

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1 of need after applying the disregards set out in Paragraphs (1)  
2 through (4) of Subsection E of this section.

3 E. Subject to the availability of state and federal  
4 funds, the department shall determine the cash payment of the  
5 benefit group by applying the following disregards to the  
6 benefit group's earned income and then subtracting that amount  
7 from the benefit group's financial standard of need:

8 ~~[(1) for the first two years of receiving cash~~  
9 ~~assistance or services, if a participant works over the work~~  
10 ~~requirement rate set by the department pursuant to the New~~  
11 ~~Mexico Works Act, one hundred percent of the income earned by~~  
12 ~~the participant beyond that rate;~~

13 ~~(2) for the first two years of receiving cash~~  
14 ~~assistance or services, for a two-parent benefit group in which~~  
15 ~~one parent works over thirty-five hours per week and the other~~  
16 ~~works over twenty-four hours per week, one hundred percent of~~  
17 ~~income earned by each participant beyond the work requirement~~  
18 ~~rate set by the department;~~

19 ~~(3)]~~ (1) one hundred twenty-five dollars  
20 (\$125) of monthly earned income and one-half of the remainder,  
21 or for a two-parent family, two hundred twenty-five dollars  
22 (\$225) of monthly earned income and one-half of the remainder  
23 for each parent;

24 ~~[(4)]~~ (2) monthly payments made for child care  
25 at a maximum of two hundred dollars (\$200) for a child under

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1 two years of age and at a maximum of one hundred seventy-five  
2 dollars (\$175) for a child two years of age or older;

3 [~~(5)~~] (3) costs of self-employment income; and  
4 [~~(6)~~] (4) business expenses.

5 F. In addition to the disregards specified in  
6 Subsection E of this section, and between the effective date of  
7 this 2007 act and June 30, 2008, or until implementation of the  
8 employment retention and advancement bonus program described in  
9 Subsection G of this section, the department shall apply the  
10 following income disregards to the benefit group's earned  
11 income and then subtract that amount from the benefit group's  
12 financial standard of need:

13 (1) for the first two years of receiving cash  
14 assistance or services, if a participant works over the work  
15 requirement rate set by the department pursuant to the New  
16 Mexico Works Act, one hundred percent of the income earned by  
17 the participant beyond that rate; and

18 (2) for the first two years of receiving cash  
19 assistance or services, for a two-parent benefit group in which  
20 one parent works over thirty-five hours per week and the other  
21 works over twenty-four hours per week, one hundred percent of  
22 income earned by each participant beyond the work requirement  
23 rate set by the department.

24 G. No later than July 1, 2008, New Mexico  
25 employment incentives shall be as follows:

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1                   (1) the department shall implement an  
2 employment retention and advancement bonus program based on  
3 availability of state or federal funds that includes financial  
4 incentives to encourage a participant to:

5                   (a) leave the New Mexico works program  
6 and move into an employment retention and advancement bonus  
7 incentive program;

8                   (b) maintain a minimum of thirty hours  
9 per week employment; and

10                  (c) leave the employment retention and  
11 advancement bonus incentive program due to increased earnings  
12 above the income eligibility standard and continue employment;

13                  (2) the employment retention and advancement  
14 bonus incentive program shall provide a cash bonus and  
15 employment services to a former participant who, upon  
16 application:

17                  (a) is currently engaged in paid work  
18 for a minimum of thirty hours per week;

19                  (b) has received cash assistance for at  
20 least three months and one of the last three months;

21                  (c) has had a gross income of less than  
22 one hundred fifty percent of the federal poverty guidelines;  
23 and

24                  (d) has participated in the employment  
25 retention and advancement bonus incentive program for no longer

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1 than eighteen months;

2 (3) for continued eligibility in the  
3 employment retention and advancement bonus incentive program, a  
4 participant shall:

5 (a) be engaged in paid work for thirty  
6 hours per week for at least one of the past three months;

7 (b) be engaged in paid work for thirty  
8 hours per week for at least four of the past six months;

9 (c) have had gross income less than one  
10 hundred fifty percent of the federal poverty guidelines; and

11 (d) have participated in the program no  
12 more than eighteen months;

13 (4) the department shall provide employment  
14 services to assist participants to access available work  
15 supports, maintain employment and advance to higher-paying  
16 employment; and

17 (5) the department shall:

18 (a) establish the amount of bonus to be  
19 paid to participants in the employment retention and  
20 advancement bonus program based on availability of state and  
21 federal funds;

22 (b) propose rules to implement the  
23 employment retention and advancement bonus incentive program of  
24 this subsection no later than January 1, 2008; and

25 (c) begin implementation of the

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1 employment retention and advancement bonus incentive program of  
2 this subsection no later than July 1, 2008.

3 [F-] H. The department may recover overpayments of  
4 cash assistance on a monthly basis not to exceed fifteen  
5 percent of the financial standard of need applicable to the  
6 benefit group.

7 I. Based upon the availability of funds and in  
8 accordance with the federal act, the secretary may establish a  
9 separate temporary assistance for needy families cash  
10 assistance program that may waive certain New Mexico Works Act  
11 requirements due to a specific situation."

12 Section 6. Section 27-2B-11 NMSA 1978 (being Laws 1998,  
13 Chapter 8, Section 11 and Laws 1998, Chapter 9, Section 11, as  
14 amended by Laws 2002, Chapter 5, Section 1 and by Laws 2002,  
15 Chapter 6, Section 1) is amended to read:

16 "27-2B-11. INELIGIBILITY.--

17 A. The following are ineligible to be members of a  
18 benefit group:

19 (1) an inmate or patient of a nonmedical  
20 institution;

21 (2) a person who, in the two years preceding  
22 application, assigned or transferred real property unless [he]  
23 the person:

24 (a) received or receives a reasonable  
25 return;

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1 (b) attempted to or attempts to receive  
2 a reasonable return; or

3 (c) attempted to or attempts to regain  
4 title to the real property;

5 (3) a minor unmarried parent who has not  
6 successfully completed a high school education and who has a  
7 child at least twelve weeks of age in [~~his~~] the minor unmarried  
8 parent's care unless the minor unmarried parent:

9 (a) participates in educational  
10 activities directed toward the attainment of a high school  
11 diploma or its equivalent; or

12 (b) participates in an alternative  
13 educational or training program that has been approved by the  
14 department;

15 (4) a minor unmarried parent who is not  
16 residing in a place of residence maintained by [~~his~~] a parent,  
17 legal guardian or other adult relative unless the department:

18 (a) refers or locates the minor  
19 unmarried parent to a second-chance home, maternity home or  
20 other appropriate adult-supervised supportive living  
21 arrangement, [~~taking~~] and takes into account the needs and  
22 concerns of the minor unmarried parent;

23 (b) determines that the minor unmarried  
24 parent has no parent, legal guardian or other appropriate adult  
25 relative who is living or whose whereabouts are known;

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1 (c) determines that a minor unmarried  
2 parent is not allowed to live in the home of a living parent,  
3 legal guardian or other appropriate adult relative;

4 (d) determines that the minor unmarried  
5 parent is or has been subjected to serious physical or  
6 emotional harm, sexual abuse or exploitation in the home of the  
7 parent, legal guardian or other appropriate adult relative;

8 (e) finds that substantial evidence  
9 exists of an act or a failure to act that presents an imminent  
10 or serious harm to the minor unmarried parent and the child of  
11 the minor unmarried parent if they live in the same residence  
12 with the parent, legal guardian or other appropriate adult  
13 relative; or

14 (f) determines that it is in the best  
15 interest of the unmarried minor parent to waive this  
16 requirement;

17 (5) a minor child who has been absent or is  
18 expected to be absent from the home for forty-five days;

19 (6) a person who does not provide a social  
20 security number or who refuses to apply for one;

21 (7) a person who is not a resident of  
22 New Mexico;

23 (8) a person who fraudulently misrepresented  
24 residency to receive assistance in two or more states  
25 simultaneously, except that [~~such~~] the person shall be

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1 ineligible only for ten years;

2 (9) a person who is a fleeing felon or a  
3 probation and parole violator; and

4 (10) a person concurrently receiving  
5 supplemental security income, tribal temporary assistance for  
6 needy families or bureau of Indian affairs general assistance  
7 [~~and~~

8 ~~(11) unless he demonstrates good cause, a~~  
9 ~~parent who does not assist the department in establishing~~  
10 ~~paternity or obtaining child support or who does not assign~~  
11 ~~support rights to New Mexico as required pursuant to the~~  
12 ~~federal act].~~

13 B. For the purposes of this section, "second-chance  
14 home" means an entity that provides a supportive and supervised  
15 living arrangement to a minor unmarried parent where the minor  
16 unmarried parent is required to learn parenting skills,  
17 including child development, family budgeting, health and  
18 nutrition, and other skills to promote long-term economic  
19 independence and the well-being of children.

20 C. Pursuant to the authorization provided to the  
21 states in the Personal Responsibility and Work Opportunity  
22 Reconciliation Act of 1996, 21 U.S.C. Section 862a(d)(1)(A),  
23 New Mexico elects to exempt all persons domiciled in the state  
24 from application of 21 U.S.C. Section 862a[~~(a)~~](d)(1)(A)  
25 concerning the restriction of eligibility for benefits on the

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1 basis of a conviction for distribution of a controlled  
2 substance."

3 Section 7. Section 27-2B-19 NMSA 1978 (being Laws 1998,  
4 Chapter 8, Section 19 and Laws 1998, Chapter 9, Section 19) is  
5 amended to read:

6 "27-2B-19. [~~PILOT PROJECT~~] SUBSIDIZED EMPLOYMENT.--

7 A. The department may [~~apply for a food stamp~~  
8 ~~waiver from the United States department of agriculture to~~  
9 ~~operate a wage subsidy pilot program.~~

10 B. ~~Upon securing a food stamp waiver, the~~  
11 ~~department shall develop a wage subsidy pilot program to run~~  
12 ~~from the effective date of the New Mexico Works Act until July~~  
13 ~~1, 2001. The department shall select a class A county, a class~~  
14 ~~B county with a valuation under three hundred million dollars~~  
15 ~~(\$300,000,000), a class B county with a valuation over three~~  
16 ~~hundred million dollars (\$300,000,000), a class C county and a~~  
17 ~~first class county as sites for the wage subsidy pilot program]~~  
18 administer a wage subsidy program based on availability of  
19 federal and state funds.

20 [~~C.~~] B. The wage subsidy [~~pilot~~] program shall  
21 include the following requirements:

22 (1) participating employers shall hire  
23 participants who receive cash assistance [~~and food stamps~~] for  
24 subsidized job slots that are full time and that offer a  
25 reasonable possibility of unsubsidized employment after the

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1 subsidy period;

2 (2) participating employers shall receive a  
3 subsidy for up to ~~[six]~~ twelve months ~~[The department may grant~~  
4 ~~an extension of three months to employers operating in areas~~  
5 ~~identified as having a higher unemployment rate than the state~~  
6 ~~average, as defined by the department, if the extension~~  
7 ~~increases the likelihood of ongoing unsubsidized employment for~~  
8 ~~the subsidized employee];~~

9 (3) subsidized employees shall not be required  
10 to work in excess of forty hours per week;

11 (4) subsidized employees shall be paid a wage  
12 that is substantially like the wage paid for similar jobs with  
13 the employer with appropriate adjustments for experience and  
14 training but not less than the federal minimum hourly wage;

15 (5) subsidized employment does not impair an  
16 existing contract or collective bargaining agreement;

17 (6) subsidized employment does not displace  
18 currently employed workers or fill positions that are vacant  
19 due to a layoff;

20 (7) wage subsidy employers shall:

21 (a) maintain health, safety and working  
22 conditions at or above levels generally acceptable in the  
23 industry and not less than those of comparable jobs offered by  
24 the employer;

25 (b) provide on-the-job training

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1 necessary for subsidized employees to perform their duties;

2 (c) sign an agreement for each placement  
3 outlining the specific job offered to a subsidized employee and  
4 agree to abide by all of the requirements of the program;

5 (d) provide workers' compensation  
6 coverage for each subsidized employee; and

7 (e) provide the subsidized employee with  
8 benefits equal to those for new employees or as required by  
9 state and federal law, whichever is greater;

10 (8) the department shall ~~[make a determination~~  
11 ~~of]~~ determine whether a participant is eligible to be a  
12 subsidized employee ~~[that includes the following criteria]~~ by  
13 establishing:

14 (a) that the participant has sufficient  
15 work experience to obtain unsubsidized employment;

16 (b) ~~[completion of]~~ that the participant  
17 has completed an employment preparation program; or

18 (c) that the department or participant  
19 may benefit from this employment strategy ~~[by the department];~~

20 (9) a disregard of income earned by the  
21 subsidized employee in the subsidized job shall be applied in  
22 the eligibility determination for services;

23 (10) the department shall suspend regular  
24 payments of cash assistance ~~[and food stamps]~~ to the benefit  
25 group for the calendar month in which an employer makes the

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1 first subsidized wage payment to a subsidized employee who is  
2 otherwise eligible for cash assistance and food stamps;

3 (11) the department shall pay employers each  
4 month, from cash assistance [~~and food stamps, the lesser of a~~  
5 ~~fixed subsidy amount determined by the department or the gross~~  
6 ~~wages paid to the subsidized employee~~];

7 (12) a subsidized employee shall be eligible  
8 for supplemental payments if the net monthly full-time wage  
9 paid to the subsidized employee is less than the [~~combined~~]  
10 monthly total of the cash assistance [~~and food stamps~~] the  
11 participant is eligible to receive. The department shall  
12 authorize issuance of a supplemental cash payment to compensate  
13 for the deficit. To determine if a deficit exists, the  
14 department shall adopt an equivalency scale that is adjustable  
15 to household size and other factors; and

16 (13) the department shall determine monthly  
17 and pay in advance supplemental payments to eligible subsidized  
18 employees. In calculating the payment, the department shall  
19 assume that the subsidized employee will work forty hours per  
20 week during the month unless an employer provides information  
21 that the number of hours to be worked by the subsidized  
22 employee will be reduced.

23 [~~D. Prior to the forty-fifth legislature, first~~  
24 ~~session, the department shall report the results of the wage~~  
25 ~~subsidy pilot program to the appropriate interim committee.~~

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1           ~~E.~~ C. For the purposes of this section, "benefits"  
2 includes health care coverage, paid sick leave and holiday and  
3 vacation pay.

4           ~~F.~~ D. For the purposes of this section,  
5 "subsidized employee" means a participant engaged in a  
6 subsidized employment activity.

7           ~~G.~~ E. For the ~~[purpose]~~ purposes of this section,  
8 "net monthly full-time wage" means a subsidized ~~[employees's]~~  
9 employee's wages after the required payroll deductions."

10           Section 8. Section 27-2D-2 NMSA 1978 (being Laws 2003,  
11 Chapter 317, Section 2) is amended to read:

12           "27-2D-2. DEFINITIONS.--As used in the Education Works  
13 Act:

14           A. "applicant" means a person applying for cash  
15 assistance on behalf of a benefit group;

16           ~~A.~~ B. "benefit group" means a pregnant woman or a  
17 group of people that includes a dependent child, all of that  
18 dependent child's full, half, step- or adopted siblings living  
19 with the dependent child's parent or relative within the fifth  
20 degree of consanguinity and the parent with whom the children  
21 live;

22           ~~B.~~ C. "cash assistance" means cash payments  
23 ~~[funded by maintenance of effort funds appropriated to the~~  
24 ~~department in compliance with the federal Personal~~  
25 ~~Responsibility and Work Opportunity Reconciliation Act of 1996,~~

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1 ~~or its successor acts, and~~ distributed by the department  
2 pursuant to the Education Works Act;

3 ~~[G.]~~ D. "department" means the human services  
4 department;

5 ~~[D.]~~ E. "dependent child" means a natural, adopted  
6 step-child or ward who is:

7 (1) seventeen years of age or younger;

8 (2) eighteen years of age and is enrolled in  
9 high school; or

10 (3) between eighteen and twenty-two years of  
11 age and is receiving special education services regulated by  
12 the ~~[state board of]~~ public education department;

13 ~~[E.]~~ F. "director" means the director of the income  
14 support division of the department;

15 ~~[F.]~~ G. "earned income" means cash or payment in  
16 kind that is received as wages from employment or payment in  
17 lieu of wages; and earnings from self-employment or earnings  
18 acquired from the direct provision of services, goods or  
19 property, production of goods, management of property or  
20 supervision of services;

21 ~~[G.]~~ H. "education works program" means the cash  
22 assistance, activities and services available to a recipient  
23 pursuant to the Education Works Act;

24 ~~[H.]~~ I. "federal act" means the federal Social  
25 Security Act and rules promulgated pursuant to the Social

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1 Security Act;

2 [~~I.~~] J. "federal poverty guidelines" means the  
3 level of income defining poverty by family size published  
4 annually in the federal register by the United States  
5 department of health and human services;

6 [~~J.~~] K. "parent" means natural parent, adoptive  
7 parent, stepparent or legal guardian;

8 [~~K.~~] L. "person" means an individual;

9 [~~L.~~] M. "recipient" means a person who receives  
10 cash assistance or services or a member of a benefit group who  
11 has reached the age of majority;

12 [~~M.~~] N. "secretary" means the secretary of human  
13 services;

14 [~~N.~~] O. "services" means child-care assistance;  
15 payment for education- or employment-related transportation  
16 costs; job search assistance; employment counseling;  
17 employment, education and job training placement; an annual  
18 payment for education-related costs; case management; or other  
19 activities whose purpose is to assist transition into  
20 employment;

21 [~~O.~~] P. "unearned income" means old age, survivors  
22 and disability insurance; railroad retirement benefits;  
23 veterans administration compensation or pension; military  
24 retirement; pensions, annuities and retirement benefits; lodge  
25 or fraternal benefits; shared shelter payments; settlement

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1 payments; individual Indian money; child support; unemployment  
2 compensation benefits; union benefits paid in cash; gifts and  
3 contributions; and real property income; and

4 [P-] Q. "vehicle" means a conveyance for the  
5 transporting of persons to or from employment or education for  
6 the activities of daily living or for the transportation of  
7 goods; "vehicle" does not include boats, trailers or mobile  
8 homes used as a principal place of residence."

9 Section 9. Section 27-2D-3 NMSA 1978 (being Laws 2003,  
10 Chapter 317, Section 3) is amended to read:

11 "27-2D-3. APPLICATION--RESOURCE PLANNING SESSION--  
12 INDIVIDUAL EDUCATION PLAN--REVIEW PERIODS.--

13 A. Application for cash assistance or services  
14 shall be made to the [~~department's county office in the county~~  
15 ~~or district in which an applicant resides~~] department. The  
16 application shall be in writing or reduced to writing in the  
17 manner and on the form prescribed by the department. The  
18 application shall be made under oath by an applicant with whom  
19 a dependent child resides and shall contain a statement of the  
20 age of the child, residence, a complete statement of the amount  
21 of property in which the applicant has an interest, a statement  
22 of all income that [~~he~~] the applicant and other benefit group  
23 members have at the time of the filing of the application and  
24 other information required by the department.

25 [~~B. Application for expedited food stamps shall be~~

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1 ~~made to the department's county office in the county or~~  
2 ~~district in which an applicant resides. The department shall~~  
3 ~~process the application for expedited food stamps within~~  
4 ~~twenty-four hours after the application is made.]~~

5 B. The department shall assist applicants in  
6 completing the application for cash assistance or services and  
7 shall evaluate applicants to determine all department programs  
8 for which the applicant may be eligible. The department shall  
9 process all expedited food stamp applications within two  
10 business days of submission, and the department shall deliver  
11 expedited food stamps to eligible applicants within seven days  
12 of the application.

13 C. At the time of application for cash assistance  
14 and services, an applicant shall identify everyone who is to be  
15 counted in the benefit group. Once an application is approved,  
16 the recipient shall advise the department if there are any  
17 changes in the membership of the benefit group.

18 D. No later than thirty days after an application  
19 is filed, the department shall make referrals and act on the  
20 application.

21 E. No later than five days after an application is  
22 approved, the department shall provide reimbursement for child  
23 care.

24 F. Whenever the department receives an application  
25 for assistance, a verification and record of the applicant's

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1 circumstances shall promptly be made to ascertain the facts  
2 supporting the application and to obtain other information  
3 required by the department. The verification may include a  
4 visit to the home of the applicant, as long as the department  
5 gives adequate prior notice of the visit to the applicant.

6 G. The department shall work with the recipient to  
7 develop an individual educational plan that:

8 (1) sets forth the educational goal for the  
9 recipient, identifies barriers to that goal and identifies the  
10 steps to be taken by the recipient to achieve that goal;

11 (2) describes the services the department may  
12 provide so that the recipient may complete [~~his~~] the  
13 recipient's educational goal; and

14 (3) provides for meetings with the recipient  
15 every six months or at the end of each academic term to review  
16 the eligibility of the benefit group and to review and revise  
17 [~~his~~] the recipient's individual education plan.

18 H. The recipient and [~~a representative of~~] the  
19 department shall sign the recipient's individual education  
20 plan. The department shall:

21 (1) not allow a recipient to decline to  
22 participate in developing an individual education plan;

23 (2) not waive the requirement that a recipient  
24 develop an individual education plan; and

25 (3) emphasize the importance of the individual

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1 education plan to the recipient."

2 Section 10. Section 27-2D-5 NMSA 1978 (being Laws 2003,  
3 Chapter 317, Section 5) is amended to read:

4 "27-2D-5. FINANCIAL STANDARD OF NEED.--

5 A. The secretary shall adopt a financial standard  
6 of need based upon the availability of state funds.

7 B. The following income sources are exempt from the  
8 gross income test, the net income test and the cash payment  
9 calculation:

- 10 (1) medicaid;
- 11 (2) food stamps;
- 12 (3) government-subsidized foster care payments  
13 if the child for whom the payment is received is also excluded  
14 from the benefit group;
- 15 (4) supplemental security income;
- 16 (5) government-subsidized housing or housing  
17 payments;
- 18 (6) federally excluded income;
- 19 (7) educational payments made directly to an  
20 educational institution;
- 21 (8) government-subsidized child care;
- 22 (9) earned income that belongs to a person  
23 seventeen years of age or younger who is not the head of  
24 household;
- 25 (10) child support passed through to the

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1 participant by the child support enforcement division of the  
2 department in the following amounts:

3 ~~[(10)]~~ (a) fifty dollars (\$50.00) ~~[of~~  
4 ~~collected child support passed through to the recipient by the~~  
5 ~~child support enforcement division of the department]~~ per month  
6 through December 31, 2008; and

7 (b) no later than January 1, 2009, a  
8 minimum of one hundred dollars (\$100) for one child and two  
9 hundred dollars (\$200) for two or more children as based on  
10 availability of state and federal funds; and

11 (11) other income sources as determined by the  
12 department.

13 C. The total countable gross earned and unearned  
14 income of the benefit group shall not exceed eighty-five  
15 percent of the federal poverty guidelines for the size of the  
16 benefit group.

17 D. For a benefit group to be eligible to  
18 participate:

19 (1) earned and unearned income that belongs to  
20 the benefit group shall not exceed eighty-five percent of the  
21 federal poverty guidelines for the size of the benefit group;  
22 and

23 (2) earned and unearned income that belongs to  
24 the benefit group shall not equal or exceed the financial  
25 standard of need after applying the disregards set out in

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1 Paragraphs (1) through (4) of Subsection E of this section.

2 E. Subject to the availability of state funds, the  
3 department shall determine the cash payment of the benefit  
4 group by applying the following disregards to the benefit  
5 group's earned income and then subtracting that amount from the  
6 benefit group's financial standard of need:

7 ~~[(1) for the first two years of receiving cash~~  
8 ~~assistance or services, if a recipient works over the work~~  
9 ~~requirement rate set by the department pursuant to the~~  
10 ~~Education Works Act, one hundred percent of the income earned~~  
11 ~~by the recipient beyond that rate;~~

12 ~~(2) for the first two years of receiving cash~~  
13 ~~assistance or services, for a two-parent benefit group, one~~  
14 ~~hundred percent of income earned by each recipient beyond the~~  
15 ~~work requirement rate set by the department;~~

16 ~~(3)]~~ (1) one hundred twenty-five dollars  
17 (\$125) of monthly earned income and one-half of the remainder,  
18 or for a two-parent family, two hundred twenty-five dollars  
19 (\$225) of monthly earned income and one-half of the remainder  
20 for each parent;

21 ~~[(4)]~~ (2) monthly payments made for child care  
22 at a maximum of two hundred dollars (\$200) for a child under  
23 two years of age and a maximum of one hundred seventy-five  
24 dollars (\$175) for a child two years of age or older;

25 ~~[(5)]~~ (3) costs of self-employment income; and

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1                    [~~6~~] (4) business expenses.

2                    F. In addition to the disregards specified in  
3                    Subsection E of this section, and between the effective date of  
4                    this 2007 act and June 30, 2008, or until implementation of the  
5                    employment retention and advancement bonus program in the New  
6                    Mexico Works Act, the department shall apply the following  
7                    income disregards to the benefit group's earned income and then  
8                    subtract that amount from the benefit group's financial  
9                    standard of need:

10                    (1) for the first two years of receiving cash  
11                    assistance or services, if a participant works over the work  
12                    requirement rate set by the department pursuant to the New  
13                    Mexico Works Act, one hundred percent of the income earned by  
14                    the participant beyond that rate; and

15                    (2) for the first two years of receiving cash  
16                    assistance or services, for a two-parent benefit group in which  
17                    one parent works over thirty-five hours per week and the other  
18                    works over twenty-four hours per week, one hundred percent of  
19                    income earned by each participant beyond the work requirement  
20                    rate set by the department.

21                    [~~F.~~] G. The department may recover overpayments of  
22                    cash assistance on a monthly basis not to exceed fifteen  
23                    percent of the financial standard of need applicable to the  
24                    benefit group."

25                    Section 11. REPEAL.--Section 27-2B-7.1 NMSA 1978 (being  
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Laws 2003, Chapter 160, Section 1) is repealed.

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